



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/693,464 | 10/24/2003 | Wamis Singhatat | ZL 0188B | 2542 |

23367 7590 01/30/2007
GENE WARZECHA
LINVATEC CORPORATION
11311 CONCEPT BOULEVARD
LARGO, FL 33773

| |
|----------|
| EXAMINER |
|----------|

HOFFMAN, MARY C

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3733

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 01/30/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/693,464

Applicant(s)

SINGHATAT ET AL.

Examiner

Mary Hoffman

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☒ Claim(s) 2 and 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al. (U.S. Patent No. 6,923,814).

A graft retaining system (FIGS. 6-8) for retaining a graft in a bone tunnel comprising a graft block having a proximal end (bottom) and a distal end (top), the graft block being sized to slidably fit within the bone tunnel, the graft block including a distally-facing support surface (top surface) at the distal end for supporting an intermediate connector (ref. #32), at least one transverse throughbore (ref. #24) being formed through the support surface; an intermediate connector (capable of connecting a predetermined portion of the graft and a predetermined portion of the graft block), the intermediate connector formed of an elongated member forming a loop supported by the support surface of the graft block, the elongated member having a first end (lower portion of loop) and a second end (upper portion of loop), at least one of the first and second ends being threaded in one direction (bottom portion of loop is threaded into transverse bore) through the at least one transverse throughbore, means for preventing said threaded end from passing back through said transverse throughbore (the portion

Art Unit: 3733

of the continuous loop that is attached to ref. #40); and means on said graft block for receiving a separate transverse member (ref. #46) to attach the graft block at a predetermined point along the length of the tunnel, the transverse member (ref. #40) being situated transverse to the axis of the bone tunnel and through the loop created by said intermediate connector. (See marked up copy)

Claims 3-5 and 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Re et al. (U.S. Patent No. 6,712,849).

Re et al. disclose a graft retaining system for retaining a graft in a bone tunnel comprising (see FIG. 11): a graft block having a proximal end (top) and a distal end (bottom), the graft block including a distally facing, saddle-shaped graft support surface (see FIG. 11, curved surface at ref. # 110) at the distal end for supporting the graft, the graft block being sized to slidably fit within the bone tunnel, the graft block further comprising a transverse proximally-facing abutment surface (see FIG. 11, curved surface at ref. #115), generally parallel to the graft support surface and located proximal to the graft support surface; and a tunnel attachment means (transverse fastener) engageable transversely with the bone tunnel and the abutment surface of the graft block to support the graft block in the bone tunnel the tunnel attachment means being located proximally of the graft support surface such that tensile forces (the surgeon pulling the graft with a tensile force in the upward direction, not the downward direction) on the graft result in compressive forces on the graft block between the graft support surface and the tunnel attachment means. The support surface comprises a convex surface bounded by distally projecting side walls (see FIG. 11, distally projecting

sockets/side wall at ref. #220). A suture-receiving hole (see top, ref. #145) is near the distal end. The tunnel attachment means comprises a pin transversely across the bone tunnel. The abutment surface comprises an a proximally facing open groove formed transversely across the proximal end of the graft block (see FIG. 11, groove/hole/abutment surface at ref. #115).

Allowable Subject Matter

Claims 2 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-2 rejected as being anticipated by Morgan et al. (U.S. Patent No. 6,923,814), Figures 3-4, and claims 3-11 as being anticipated by Re et al. (U.S. Patent No. 6,712,849) have been considered but are moot in view of the new ground(s) of rejection (Different embodiment/interpretations of the Morgan et al. reference (U.S. Patent No. 6,923,814) and Re et al. (U.S. Patent No. 6,712,849) are the new ground of rejection).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3733

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Hoffman whose telephone number is 571-272-5566. The examiner can normally be reached on Monday-Friday 9:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCH

A handwritten signature in black ink, appearing to be 'mel'.A large, stylized handwritten signature in black ink, likely belonging to Eduardo C. Robert.

EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER